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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): David Browne

GROUP NO. 3748

13

SERIAL NO.: 10/073,582

EXAMINER: Not Yet Assigned

FILED: 2/12/2002

TITLE: Renewable Stored Energy
Power Generating
Apparatus

Ms. Patricia Faison-Ball
 Senior Petitions Attorney
 Office of Petitions
 Mail Stop Petitions
 COMMISSIONER FOR PATENTS
 P. O. Box 1450
 Alexandria, VA 22313-1450

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MAY 08 2006

OFFICE OF PETITIONS

**REQUEST FOR RECONSIDERATION OF DISMISSAL
OF PETITION TO REVIVE APPLICATION**

On November 2, 2005, the undersigned, on behalf of Applicant, filed a Continuation-in-Part Utility Patent Application titled "Renewable Portable Stored Energy Power Generating Apparatus With Alternate Water Source Capability," which was designated as based on utility non-provisional application Serial No. 10/073,582, filed February 12, 2002, which non-provisional application is based on provisional application Serial No. 60/337,549 filed November 13, 2001. The November 2, 2005 continuation-in-part application was given Serial No. 11/265,661. The undersigned also filed on November 2, 2005, a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), along with the appropriate fee of \$750 (Exhibit A).

Application Serial No. 10/073,582 went abandoned prior to November 2, 2005 for failure to timely respond to an Office Action dated May 14, 2003. Prior to submitting the Petition to Revive and continuation-in-part application Serial No. 10/073,582 on November 2, 2005, Applicant's attorney read Rules 137(b)(1) and (c) (37 CFR §§ 1.137(b)(1) and (c)) and Rule 53(b) (37 CFR § 1.53(b)). Rules 137(b)(1) and (c) state that in petitioning to revive an application unintentionally abandoned for failure to prosecute, the required submittal of a response to the outstanding Office Action may be met by the filing of a continuing application. Rule 53(b) defines a "continuing application" as being either a continuation, divisional, or continuation-in-part application. Applicant's response to the outstanding Office Action of May 14, 2003 was the continuation-in-part application filed November 2, 2005, granted Serial No. 11/265,661.

The Senior Petitions Attorney by her letter of March 6, 2006 (Exhibit B), advised the undersigned that the Petition to Revive application Serial No. 10/073,582 was denied because of a failure to submit the required reply to the Office Action of May 14, 2003. Upon receiving notification of the denial of the Petition to Revive, applicant's attorney contacted the Senior Petitions Attorney and advised her of the filing of the continuation-in-part application as fulfillment of the requirement to file a response to the outstanding Office Action. The Senior Petitions Attorney advised the undersigned to submit in writing the fact that the response requirement was complied with by the filing of the continuation-in-part application on November 2, 2005. This document is submitted in response to this request by the Senior Petitions Attorney.

Based on the above, Applicant respectfully requests the Senior Petitions Attorney to grant the Petition to Revive filed November 2, 2005.

Respectfully submitted,

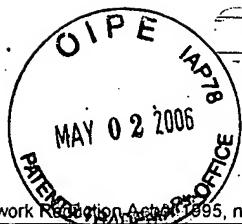
Howard B. Rockman

Howard B. Rockman
Reg. No. 22,190

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EXHIBIT A

Doc Code:



PTO/SB/64 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

39221-98403
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First named inventor: David S. Browne

Application No.: 10/073,582

Art Unit: 2838

MAY 08 2006

Filed: February 12, 2002

Examiner: Pia Tibbits

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Title: Renewable Portable Stored Energy Power Generating Apparatus with Alternate Water Source Capability

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ a Continuation-in-Part Application

(identify type of reply):

has been filed previously on _____
 is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

has been paid previously on _____
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending on the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

| | |
|---|------------------------------------|
| Signature | 11/2/05 |
| Howard B. Rockman | Date |
| Typed or printed name | 22,190 |
| Barnes & Thorburg, LLP | Registration Number, if applicable |
| Address | (312) 214-4812 |
| 1 North Wacker Dr., Suite 4400, Chicago, IL 60606 | Telephone Number |
| Address | |

Enclosures: Fee Payment
 Reply
 Terminal Disclaimer Form
 Additional sheets containing statements establishing unintentional delay
 Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

11/02/2005
Date

Howard B. Rockman
Signature

HOWARD B. ROCKMAN
Type or printed name of person signing certificate



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

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MAR 06 2006

OFFICE OF PETITIONS

DAVID S. BROWNE
26250 SCHOONER DRIVE
NEW LENOX IL 60451

In re Application of :
David S. Browne :
Application No. 10/073,582 :
Filed: February 12, 2002 :
Title of Invention: **RENEWABLE STORED
ENERGY POWER GENERATING
APPARATUS**

ON PETITION

This is a decision on the petition, filed November 2, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is not final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office Action mailed May 14, 2003. An response filed June 19, 2003 was considered and the applicant was advised in an advisory action mailed July 15, 2003 that the response did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed November 18, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;
- (2) the petition fee required by 37 CFR 1.17(l);

Application No. 10/073,582

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(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of May 13, 2003, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

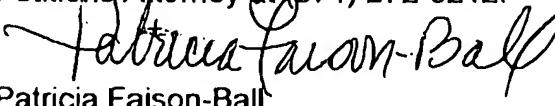
No additional response was submitted with the petition, just the petition and the petition fee. Petitioner must submit a proper reply to the final Office action mailed on May 13, 2003, with any renewed petition. Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions